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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

UNITED STATES OF AMERICA,	)	Case No. 23-CR-00269 JSW
	)	
Plaintiff,	)	<b>[PROPOSED] JOINT PRETRIAL</b>
	)	<b>CONFERENCE ORDER</b>
v.	)	
	)	
MORTEZA AMIRI and	)	
DEVON CHRISTOPHER WENGER,	)	
	)	
Defendants.	)	

Pursuant to the Court's Standing Orders, the Local Rules, and the Federal Rules of Criminal Procedure, the parties submit the following proposed joint pretrial conference order:

## **I. Brief Description of the Substance of the Case**

The parties jointly offer the following statement of the case:

This is a criminal case brought by the United States government against defendants Morteza Amiri and Devon Wenger. Defendants Amiri and Wenger are charged with conspiring with each other and other law enforcement officers to violate the civil rights of individuals, in or near Antioch, California, through the use of unreasonable force. Defendants Amiri and Wenger are also charged with individual violations of civil rights through their uses of unreasonable force. Defendant Amiri is also charged with falsification of records. During the relevant time period, Defendants Amiri and Wenger were police officers with the Antioch Police Department.

Specifically, the government alleges that, between at least 2019 and 2022, Defendants Amiri and Wenger took part in a conspiracy with Eric Rombough and other law enforcement officers to use unreasonable force against individuals in or near Antioch, California. The government alleges that, as part of the conspiracy, the defendants agreed with each other to use unreasonable force; communicated about their deployments of unreasonable force and touted them to each other; authored false or misleading police reports to conceal their uses of unreasonable force; and encouraged each other to use unreasonable force, including as punishment. The government also alleges that Defendant Amiri used unreasonable force on A.A. on or about July 24, 2019; on R.S. on or about December 19, 2019; on D.R. on or about August 23, 2020; and on M.Z. on or about October 8, 2020, and that Defendant Wenger used unreasonable force on D.S. on or about October 26, 2021. The government further alleges that Defendant Amiri obstructed justice by falsifying a police report regarding the arrest of A.A., on or about July 24, 2019.

These are only allegations. Defendants Amiri and Wenger have denied the charges and pled not guilty. Defendants Amiri and Wenger are presumed innocent of all charges. The United States government must prove each charge against Defendants Amiri and Wenger beyond a reasonable doubt.

## **II. Stipulated Facts**

The government has proposed stipulations to streamline the presentation of evidence at trial and obviate the need to call custodians of record.

### III. Joint Exhibit List

The parties have prepared the attached joint exhibit list, **Appendix 1**.

### IV. Parties' Witness Lists

United States' Witness List: The government provides a list of prospective witnesses that it expects to call to testify at trial and a list of witnesses it may call to testify at trial, other than those called solely for impeachment or rebuttal. The government reserves its rights to supplement or modify this list in advance of trial and to call additional witnesses as may be necessary during trial.

<u>Expect to call</u>	<u>May call</u>
Ashley Allen	Jonathan Adams
Adrian Arroyo	Steve Coffin
Joyce T. Blalock	Armando Delgado-Campos
Logan Cartwright	Joshua Evans
Matthew Contreras	Randall Gragg
Joseph Donleavy	Johnathan Harrison
Robert Green	Rick Hoffman
Steve Ijames	Munmeet Kular
Kevin Lucid	Lindzie Laughridge
Timothy Manly Williams	Brock Marcotte
Craig Perry	Krystal Templin Martinelli
Larry Reed	Anthony Morefield
Eric Rombough	Erik Nilsen
Daniel Romo	Trevor Schnitzius
Dajon Smith	Scott Rice
Ken Wallentine	Joseph Smith
Jessie Lee Wilson	Kyle Smith
Mason Zeigler	Rodney Lamon Smith
	Steven Soares
	Gregg Tawney
	Kevin Tjahjadi
	Jennifer Trott
	Joseph Vigil
	Patrick Wentz
	Jimmy Wisecarver, Jr.
	Timothy Yee
	Thuy Zoback
	City of Antioch Custodian of Records
	City of Pittsburg Custodian of Records
	City of Oakley Custodian of Records
	California POST Custodian of Records
	Apple Custodian of Records
	Sutter Health Custodian of Records
	Kaiser Permanente Custodian of Records

Defendant Amiri's Witness List:Expect to call

Zachary Pfannenstiel

May Call

Todd Orlando  
 James Stenger  
 CSO Nieves  
 Robert Green  
 Aaron Hughes  
 Tyler Radcliffe  
 Logan Cartwright  
 Matthew Contreras  
 John Fortner  
 Rob Gerber

Mr. Amiri incorporates the witnesses whom the government expects to call. Mr. Amiri's witness list does not include those called solely for impeachment or rebuttal. Mr. Amiri reserves his rights to supplement or modify this list in advance of trial and to call additional witnesses as may be necessary during trial.

Defendant Wenger's Witness List:Expect to call

Gary Lowther  
 Don Noble  
 Mike Rains  
 Julia Fox  
 Larry Wallace  
 Matthew Ernst  
 Josh Evans  
 Jonathan Adams  
 Scott Rice  
 Ryan Duff  
 Darryl Brian  
 Nicholas Shiplov  
 Matthew Nutt  
 Erik Nielson  
 Shane Cole  
 Arturo Becerra  
 Kristian Palma  
 Patrick Mayer  
 James Colley  
 Brittany Thorpe  
 Ana Cortez  
 Patrick Wentz  
 Rick Hoffman  
 Karen Kramer  
 Mark Lillienfeld

May Call

Mr. Wenger incorporates the witnesses whom the government expects to call. Mr. Wenger's witness list does not include those called solely for impeachment or rebuttal. Mr. Wenger reserves his rights to supplement or modify this list in advance of trial and to call additional witnesses as may be necessary during trial.

#### **V. Parties' Lists of Individuals Who May Be Seated at Counsel Table**

United States: Jessie Chelsea, Eric Cheng, Ajay Krishnamurthy, Alethea Sargent, Alexandra Shepard, Krystal Templin Martinelli and/or Thuy Zoback.

Defendant Amiri: Paul Q. Goyette, Janelle F. Crandell, Gabriella Turnbull, Morteza Amiri.

Defendant Wenger: Nicole Lopes, Devon Wenger, Mark Lillienfeld.

#### **VI. Remaining Items Under N.D. Cal. Crim. L.R. 17.1-1(b)**

##### **1. Disclosure and contemplated use of statements or reports of witnesses under the Jencks Act, 18 U.S.C. § 3500, or Fed. R. Crim. P. 26.2;**

The United States has disclosed and produced to defendants reports of witnesses it intends to call at trial. In preparing for trial, the government is continuing to interview witnesses and continuing to obtain and review evidence. To the extent that the government obtains new transcripts or reports they will be promptly processed and provided to the defendants. The government will meet and expects to exceed its obligations under the Jencks Act, 18 U.S.C. § 3500 and Rule 26.2 and continues to review the materials in its possession for any statements of witnesses it intends to call at trial, and will process and provide such statements to the defendants as soon as practicable and no later than the date of jury selection.

This Court previously set a defense discovery cut-off of December 13, 2024. To date, the defense has produced approximately 39 pages of discovery.<sup>1</sup> The United States takes the position that, absent good cause, any additional discovery is untimely.

##### **2. Disclosure and contemplated use of grand jury testimony of witnesses intended to be called at the trial;**

The United States has exceeded its obligations and already provided to the defendants in

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<sup>1</sup> The defense also provided several expert witness reports, which are the subject of several of the parties' Motions in Limine.

discovery transcripts of any grand jury testimony of witnesses the government anticipates calling in its case-in-chief.

**3. Disclosure of exculpatory or other evidence favorable to the defendant on the issue of guilt or punishment;**

The United States believes that it has supplied all materials that may be relevant under *Brady v. Maryland*, 373 U.S. 83 (1963). In preparing for trial, the government is continuing to interview witnesses and continuing to obtain and review evidence. The government continues to review materials in its possession for potential exculpatory or impeachment information. The government recognizes and will comply with its ongoing obligation to provide the defense with materials subject to *Brady*, *Giglio v. United States*, 405 U.S. 150 (1972); and/or *United States v. Henthorn*, 931 F.2d 29 (9th Cir. 1991).

**4. Stipulation of facts which may be deemed proved at the trial without further proof by either party and limitation of witnesses;**

See Part II (Stipulated Facts) above.

**5. Appointment by the Court of interpreters under Fed. R. Crim. P. 28;**

The parties do not anticipate the need for Court-appointed interpreters.

**6. Dismissal of counts and elimination from the case of certain issues, e.g., insanity, alibi and statute of limitations;**

The government is evaluating whether one or more counts alleged in the Indictment may be dismissed solely for purposes of streamlining the upcoming trial.

The defendants have not disclosed to the United States, any issues regarding insanity, alibi, mental condition, duress, justification, or any other related issues.

**7. Joinder pursuant to Fed. R. Crim. P. 13 or the severance of trial as to any co-defendant;**

The parties are not seeking severance of trial as to any co-defendant.

**8. Identification of informers, use of lineup or other identification evidence and evidence of prior convictions of defendant or any witness, etc.;**

The United States intends call in its case-in-chief two individuals who pleaded guilty to crime(s) arising out of the same or related events for which the defendants are on trial: Timothy Manly Williams and Eric Allen Rombough. The defendants are aware of the identity of these individuals, which were previously provided in discovery.

Regarding other witnesses disclosed by the United States as witnesses that it expects to call or may call, the defendants have not provided notice of any intent to use impeachment evidence in which more than 10 years have passed since a witness' prior conviction or release from confinement. Fed. R. Evid. 609(b).

Defendant Amiri's prior convictions before this Court for conspiracy to commit wire fraud and wire fraud are the subject of the parties' motions *in limine*.

**9. Pretrial exchange of lists of witnesses intended to be called in person or by deposition to testify at trial, except those who may be called only for impeachment or rebuttal;**

*See* Part IV (Parties' Witness Lists) above.

**10. Pretrial exchange of documents, exhibits, summaries, schedules, models or diagrams intended to be offered or used at trial, except materials that may be used only for impeachment or rebuttal;**

*See* Part III (Joint Exhibit List) above. The United States is preparing summaries, diagrams, and demonstrative exhibits in anticipation of trial, and will share them with defense counsel as they are completed.

The parties have agreed to exchange any exhibits and/or demonstratives to be used during opening statements at least 72 hours before trial begins so that any potential disputes may be addressed in advance of trial.

**11. Pretrial resolution of objections to exhibits or testimony to be offered at trial;**

The parties are meeting and conferring to resolve potential objections to exhibits and testimony before bringing any matters to the attention of the Court. Objections by a party will be concurrently filed by the objecting party pursuant to the Court's Standing Order.

An evidentiary objection made by one defendant shall be treated as an evidentiary objection made by both defendants unless otherwise indicated.

**12. Preparation of trial briefs on controverted points of law likely to arise at trial;**

The United States will file a trial brief pursuant to the Court's Standing Order. The parties also filed motions *in limine* to attempt to address anticipated disputes likely to arise at trial.

1                   **13. Scheduling of the trial and of witnesses;**

2           The parties provided a joint statement regarding the anticipated length of trial on January 16,  
3 2025 (Dkt. No. 242).

4                   **14. Request to submit questionnaire for prospective jurors pursuant to Crim.**  
5                   **L.R. 24-1, voir dire questions, exercise of peremptory and cause challenges**  
6                   **and jury instructions;**

7           The parties will concurrently file a joint set of proposed voir dire questions upon which the  
8 parties agree, and supplement with disputed questions proposed by a party, if any.

9                   **15. Any other matter which may tend to promote a fair and expeditious trial.**

10          The parties will continue working together to resolve matters in an effort to promote a fair and  
11 expeditious trial and will timely bring to the Court's attention those matters upon which the parties  
12 disagree.

13 DATED: January 27, 2025

Respectfully submitted,

14 ISMAIL J. RAMSEY  
United States Attorney

15                   \_\_\_\_\_  
                  /s/  
16 ERIC CHENG  
ALETHEA SARGENT  
17 AJAY KRISHNAMURTHY  
ALEXANDRA SHEPARD  
18 Assistant United States Attorneys

19 DATED: January 27, 2025

GOYETTE, RUANO & THOMPSON

20                   \_\_\_\_\_  
                  /s/  
21 PAUL GOYETTE  
22 JANELLE CRANDELL  
23 Attorneys for Defendant MORTEZA AMIRI

24 DATED: January 27, 2025

Respectfully submitted,

25 SEKI, NISHIMURA & WATASE, PLC

26                   \_\_\_\_\_  
                  /s/  
27 NICOLE LOPES  
28 Attorney for Defendant DEVON WENGER



**[PROPOSED] ORDER**

**IT IS SO ORDERED.**

DATED:

HON. JEFFREY S. WHITE  
United States District Judge